



QUARTERLY ACTIVITY REPORT # 2 FOR PERIOD OF July - September 2005

**Submitted to USAID/Kenya
By SUNY/CID
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Center for International Development
The State University of New York

Introduction

The following is the second quarterly activity report of the USAID/SUNY Legislative Strengthening Program to the National Assembly of Kenya, No.623-P-05-009 under IQC NO. DFD-I-00-04-00128-00. The content and focus of the report is arranged according to the main program activities stipulated in the SUNY Task Order contract.

Summary: By remaining highly responsive to parliamentary requests, SUNY/Kenya was able to support the National Assembly in its legislative and oversight activities, both on the committee- and the parliamentary-level. Project activities directly impacted the drafting or approval of six bills and improved the oversight capacity of several targeted committees.

Most planned activities were achieved during this quarter. In particular, considerable progress was made in supporting the work of targeted committees (drafting bills, holding stakeholder meetings, study visits, provision of interns and expert advisors); MPs and committee staff have been trained in computer applications in the new ICT resource room, established with USAID support in Continental House of Parliament.

There were no significant set backs during the quarter. The only activities delayed were the retreats with the PSC and senior clerks, in the passage of the budget motion to establish a select committee on the Budget and an Office of Fiscal Analysis, and in the finalizing the MP directory.

Program Objective: The program seeks to enhance the effectiveness of the Kenyan Parliament to fulfill its constitutional mandate of lawmaking, representation and oversight of the executive. The targets of USAID/SUNY support are the eight departmental Committees, the proposed Budget Committee, and the two watchdog Committees – Public Accounts and Public Investment Committees. In order to support the Committee system, the program will strengthen the linkages among the Legislature, Civil Society, and the Executive and engage the National Assembly in the following areas:

A) Support to Parliamentary Service Commission (PSC) Leadership. (*IR 6.2.2 and IR 6.2.3*) No accomplishments were made during this quarter due to the fact that the motion to create a select committee on the budget and an Office of Fiscal Analysis was deferred, after being tabled, until the next session of Parliament, which starts on September 27, 2005. However, SUNY did receive a letter from the Vice-Chairman of the Parliamentary Service Commission, Hon. Peter Oloo Aringo formally requesting SUNY to facilitate initiatives related to the proposed select committee on the Budget and Office of Fiscal Analysis (see Planned Activities)

B) Support for Committees (*IR 6.2, IR 6.2.1, IR 6.2.2 IR 6.2.4*)

Assistance to the Administration of Justice and Legal Affairs Committee. In collaboration with the Kenya Section of the International Commission of Jurists (ICJ) and the Law Society of Kenya (LSK), SUNY facilitated the drafting of the Media Council of Kenya bill. Under the chairmanship of the sub-committee of the Legal Affairs Committee led by Hon Kenneth Marende, SUNY held a meeting at its offices to review the updated draft legislation. At the meeting, the participants decided that the subcommittee meets with Minister Tuju to seek his input on the bill before there is a workshop to solicit further stakeholder input into the draft legislation.

In response to a committee request, SUNY hired consultants to draft the Access to Information bill and a bill to repeal the Criminal Libel law. The former initiative is still underway, while the latter was completed and submitted to the committee.

In response to a committee request last quarter, SUNY supported the development of a manual for vetting, approving and/or confirming presidential appointees to public office in Kenya in anticipation of the new Constitution. In collaboration with SUNY, the Law Society of Kenya developed a draft manual, which SUNY submitted to the Chairman of the Committee in August.

In response to a committee request, SUNY is helping to organize the program and logistics for a visit to the New York State Legislature and US Senate by six members and two staff of the committee. The purpose of the visit was to study the US experience with vetting executive appointments. The committee chose the US because of its long-standing tradition of legislative vetting of executive nominees for key government posts. The Parliament of Kenya is covering the cost of airfare and per diem, while USAID, through SUNY, is providing for the cost of a SUNY staff to accompany the delegation and other logistical arrangements.

Assistance to the Health Committee: SUNY facilitated a study visit to the Ugandan Parliament to help the committee understand the rationale for the creation of a standing committee on HIV/AIDS in Uganda's Parliament and meet with HIV/AIDS civil society actors and executive agencies to learn from their experience in the fight against HIV/AIDS.

Upon its return from Uganda, the Committee requested SUNY to hire consultants to draft a committee version of the HIV/AIDS bill in response to a committee request. SUNY then facilitated a consultative meeting between the committee and key stakeholders to seek input on the bill before it is tabled in Parliament in early October.

SUNY has met several times with USAID OPH to discuss new initiatives emanating from the health committee and how best to synergize with OPH objectives.

Assistance to the Finance and Trade Committee: With Parliament and the Ministry of Finance, SUNY co-sponsored a workshop on the Government's proposed reform bills – (the Public Procurement and Disposal Bill, the Privatization Bill and the Miscellaneous Statute Law Amendment Bill, 2005 (see attachment A and B). Held in June, the workshop brought together over 80 MPs and key staff of the Ministry of Finance in an attempt to reach consensus on these very important bills. In August, both the Procurement and the Privatization bills were passed by Parliament and sent to the President for assent.

Assistance to Watchdogs Committees: SUNY met with PAC Chairman Hon Uhuru Kenyatta and PIC Chairman Hon Muturi to discuss SUNY assistance to watchdog committees. The chairmen requested that SUNY provide short-term forensic auditors to work and train committee members and staff (on the job) in identifying potential fraud and other forms of misappropriation of public funds. In consultation with the Institute of Certified Public Accountants of Kenya (ICPAK), SUNY sourced candidates and forwarded three CVs to the committee for its perusal.

C) Support for Staff (IR 6.2.2) SUNY established ICT training room, with 14 Dell computers, an HP laser printer, and a projector and screen to train MPs and committee staff. The room also doubles as a resource room for committee staff that lack sufficient ICT capacity in their offices. SUNY awaits a date from Speaker on official launching of the resource room.

D) Other Activities (SO 6 # 2)

The Parliamentary Initiatives Network (PIN), a grouping of Civil Society organizations with a programmatic interest in Parliament, held two meetings at SUNY. It published its first newsletter in June outlining PIN member activities lined up for Parliament and any other ongoing engagement with the Kenya National Assembly (see attachment C).

In conjunction with the USAID DG team, SUNY had the privilege of hosting a delegation of staffers from the House Democracy Assistance Commission (HDAC) of the US Congress. The team was in Kenya to assess the possible collaboration between the USA Congress and the Kenya Parliament. HDAC aims at helping strengthen the parliaments of new and emerging democracies around the world by enabling Members and staff of the House of Representatives to share their expertise and experiences with their counterparts in order to enhance accountability, transparency, legislative independence, and government oversight. Kenya is among the five candidate countries for first-year partnerships (East Timor, Georgia, Indonesia, Kenya and Macedonia)

Given SUNY status as an implementing partner (and not a donor), USAID turned down the Donor Coordination Group request for SUNY to be a co-chair (along with the British High Commission) of the Donor Coordination forum. Nonetheless, USAID did approve SUNY's role as secretariat to the forum. SUNY has updated the donor coordination matrix, drafted and circulated the minutes for the forum's meetings.

SUNY provided assistance with organization of the visit of the Kenyan Delegation to EAAPAC's Annual General Meeting in Dar es Salaam on July 22-23. The meeting yielded a signed constitution and resolution to register EAAPAC in Kenya with chapters in Kenya, Uganda, Rwanda and Tanzania. SUNY/Kenya was tasked with pursuing funding to cover costs of development of a strategic plan, best PAC practices manual, and by laws for the constitution.

SUNY continued to update and streamline the bills tracking instrument to help closely monitor and follow the process of bills in Parliament beginning from tabling, debating and passage or rejection of bills. The system is meant to help SUNY and its partners follow up important legislative work in Parliament effectively, accurately and in a timely manner.

Performance Indicator Results (section not clear, incomplete)

Legislative Review (IR 6.2 #1)

Progress was recorded towards the targets of the performance indicators:

of bills were amended OR parliamentary initiatives this quarter suggest that # of bills will be amended next quarter.

Committee Effectiveness (IR 6.2.2 #1)

The workshop held by SUNY/Kenya for the Education Committee will facilitate the implementation of its work plan.

Challenges

Retreats for PSC, Office of the Clerk and Liaison Committee: The first two retreats have been postponed indefinitely due to internal wrangling within the PSC. However, because of SUNY's regular presence in Parliament and frequent meeting with members of the PSC and with senior clerks, it has had informal discussions on the strategic plan and staff development requirements.

SUNY has been requested to facilitate a retreat of the Liaison Committee to discuss progress of Parliamentary Committee business and ways of strengthening the Liaison Committee's operations. This retreat has been postponed until early next year due to the referendum on November 21 and the Christmas holidays.

MP Directory: According to Deputy Clerk Werunga, Parliamentary staff have completed gathering all information for the MP Directory. It is awaiting the Clerk's approval. SUNY has already sourced three quotes from printers and is awaiting the written permission of the Clerk, along with the updated information before going to print

Budget Committee and Office of Fiscal Analysis: The motion to establish a budget committee and office was deferred to the 4th session of parliament. However, SUNY has already taken steps to respond to the request from the motion's mover, Hon. Oloo Aringo, to launch activities for the establishment of the Budget Committee and the Office of Fiscal Analysis in parliament.

Activities Planned for the Next Quarter

Budget Committee/Office. *(Contributing to SO 6 # 1 and IR 6.2.3)* Assuming the motion to establish the Budget Committee and Office of Fiscal Analysis is passed in parliament, SUNY will work with local CSOs, MPs and parliamentary staff to 1) develop job descriptions and source necessary personnel to support the proposed budget structures; 2) organize and co-sponsor two study tours to legislatures with budget committees and or budget offices; and 3) source consultants to help with the drafting of the necessary bills to further the objectives of the enactment of the budget law by Parliament.

Education Committee. *(Contributing to SO 6 #2 and IRs 6.2 and 6.2.2)* SUNY learned that the Education Committee has been engaging the Ministry of Education and other actors on the proposed Biosafety Bill. The Ministry of Education is preparing a sessional paper on the same. Therefore, the Education Committee would like support in preparing to engage other actors on the Sessional Paper in anticipation of the legislation. The ABEO team of USAID is interested in this too and held discussions with SUNY recently seeking help to facilitate linkages between the Education Committee, and other relevant committees and other actors in the executive and civil society.

Finance Committee. *(Contributing to SO 6 #1 and IR 6.2.3, IR 6.2.2).* SUNY will host a two-day workshop on the Finance Bill (post Budget bill). The committee chairman has also asked SUNY to source a consultant to assist the committee with the review of the National Social Security Pensions Trust Bill, 2005.

Health Committee. *(Contributing to SO 6 #2 and IR 6.2.1 and IR 6.2.4).* There are no planned activities due to USAID/Kenya's letter ordering SUNY to cease all assistance to the Health Committee on the HIV/AIDS legislation, save monitoring progress of the Government's bill, Committee's draft legislation (it is not a bill, but a proposal for a bill), and explaining the legislative process to key stakeholders.

PAC/PIC. *(Contributing to SO 6 #2)* SUNY is awaiting feedback from the committee chairmen on the forensic accounting consultants it put forward.

Legal Affairs Committee. *(Contributing to SO 6 #2 and IR 6.2.1 and 6.2.1)* SUNY will organize and carry out a study tour for committee members and staff to the US to review US legislature's processes and procedures of vetting executive appointments. SUNY will also help

MPs complete work on the vetting manual. Plans are also underway to meet with Minister Tuju on the draft Media Council bill and afterwards hold a stakeholder meeting on the bill before it is submitted to parliament. SUNY also hopes to complete work on the Freedom of Information Bill.

Intern Program. (*Contributing to IR 6.2.2*) The US DCM will address the interns at SUNY Kenya's office. SUNY will send out letter to all universities to begin the next cycle of recruitment for the internship program.

Performance Monitoring Report. SUNY will provide USAID with data and analysis on indicators and intermediate results by November 15, 2005.

[Bill Tracker completed](#)

[A section on challenges](#)

[Attachment on financial report as per the Task Order requirements.](#)

Attachments

- A** **Nation Newspaper article**
- B** **The Standard Newspaper article**
- C** **Attachment – Parliament Initiatives Network bulletin (in PDF)**

A.

POLITICS

House passes Bill on public business

Story by NATION Reporter
Publication Date: 8/5/2005

A Bill to regulate how the Government buys and sells goods and services sailed through yesterday.

But MPs agreed – in the Committee of the Whole House – to change some sections of the Public Procurement and Disposal Bill, 2005 to give local contractors the chance to trade with the Government.

The Bill is expected to streamline the Government's tendering processes.

MPs clarified and amended a clause in the original Bill that had allowed international companies to bid for Government tenders and disposal of unserviceable or obsolete equipment and property.

According to the changes, candidates shall take part in public procurement without discrimination. However, social development and economic factors will be considered to allow fair competition.

Disadvantaged groups, small and medium enterprises and identified regions will benefit from the new arrangement.

Exclusive preference will be given to Kenyan bidders where projects are fully funded by the Government or the amounts available are below the prescribed threshold.

Contractors offering goods manufactured, mined or grown locally will also be given preference.

MPs endorsed the amendments to the Bill after one and a half hours of debate.

This could have been one of the benefits of a workshop organised for them in Mombasa last month by the Treasury and an American NGO.

National Assembly Speaker Francis ole Kaparo had at first asked MPs not to attend the meeting, saying the move was tantamount to taking House business outside the Chamber.

But he later softened his position and the members flew to a luxurious beach hotel at the Coast where they discussed procurement procedures for two days.

Officials from the Treasury educated them on the salient features of the Bill and they proposed amendments that were later reflected on the Order Paper.

Yesterday, debate on the amendments was led by the chairman of the House Committee on Finance, Trade, Tourism and Planning, Mr Mutahi Kagwe (Mukurwe-ini, Narc).

He took members through the motions by proposing the amendments as they responded with resounding Ayes save for two MPs who sought clarifications from Finance minister David Mwiraria.

They were Mr Omingo Magara (South Mugirango, Ford People) and Mr Joseph Lagat (Eldoret East, Kanu).

First, they questioned a recommendation that contractors who failed to implement projects be charged interest at the prevailing commercial bank rates. The MPs said the Government, being the main business player in public tenders, was bound to lose to contractors.

Mr Magara proposed that such fines be pegged to Treasury bills, "because private contractors will use it to fleece the Government". On his part, Mr Lagat said different banks charged different interest rates.

B.



|| Friday August 5, 2005

EU withholds Sh4.6b over Privatisation Bill

By Elizabeth Mwai and Francis Openda

The European Union is withholding Sh4.6 billion (50 million euros) pending the passage of the Privatisation Bill.

Finance minister David Mwiraria appealed to Parliament to pass the Bill, saying it was in the interest of Kenyans to enact it.

Contributing during the second reading of the proposed legislation, Mwiraria asked members to approve the Bill before going on recess next week.

"It is in the interest of the nation for the Bill to go through," he said.

Mwiraria said the Bill had been refined to address earlier concerns raised by members and that they should now give it careful consideration and amend it as necessary.

Seconding the Bill, Vice President Moody Awori said the European Union was waiting to for the Bill's passage before releasing funding.

"The Government has no business doing business; it should instead look up to the private sector to re-engineer the economy," he said.

Awori said fears raised earlier by members were genuine given that state corporations had in the past been sold for a song. And he said there must be transparency and accountability in the sale of state corporations.

"Kenyans must be told who is buying and at what cost; and (the corporations) must be sold to the highest bidder," he said.

Ntonyiri MP Maoka Maore (Kanu) said the Bill should have been among the first five to be passed by the Narc Government. He said there was no change in the disposal of parastatals, despite persistent

criticism of lack of transparency in the exercise during the former regime.

Maore said parties should not be allowed to conduct valuations for property they were interested in as there was a risk of undervaluation.

And he cited the case of UK cell phone giant Vodafone, which was allowed to value a firm it was interested in. The MP proposed clear clauses in the Privatisation Bill to guard public assets from being preyed on by politicians.

Maore said ICDC's shares in Firestone East Africa were surrendered at less than a quarter of their value. The MP said state divestiture from the Kenya Commercial Bank, National Bank, Kenya Railways, Telkom Kenya, Kenya Ports Authority and other state firms should be done through the Nairobi Stock Exchange and not directly to so-called strategic investors.

He said the final authority to sell must lie with Parliament and not a few individuals.

Maore welcomed the Bill, saying it would pave the way for the mobilisation of local resources for investment by Kenyans.

Wundanyi MP Mwandawiro Mganga (Ford People) opposed the Bill, saying accepting it would be like selling the country's property for a mere 50 million Euros.

He said the Government had a responsibility to preserve Kenya's resources by rejecting the Bill.

Debate was twice interrupted for lack of quorum, which was first raised by Sigor MP Philip Rotino at 6.35 when only 14 members were present.

Keiyo North MP Lucas Chepkitony (Kanu) further alerted temporary speaker Daniel Khamasi to the lack of quorum at 7.05pm.